

CITY OF LYNNWOOD

ORDINANCE NO.2629

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, AMENDING SECTIONS 3.30.010, 3.30.050, 13.32.010 AND 14.50.090 AND REPEALING SECTIONS 14.50.100 AND 14.50.110 OF THE LYNNWOOD MUNICIPAL CODE; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR SUMMARY PUBLICATION.

WHEREAS, the City owns and operates an extensive system of infrastructure, including but not limited to roadways, sidewalks, sewer, water and stormwater systems, traffic signals, parks and streetlights; and

WHEREAS, the City anticipates that properties in the City Center sub-area and city-wide will develop, and that major infrastructure improvements will be needed as a result of such development; and

WHEREAS, the City realizes that required infrastructure improvements for private development projects may be costly for a developer, but may be utilized by other future developments; and

WHEREAS, the City wishes to facilitate development of properties in the City by allowing reasonable means for developers to recover costs incurred for making necessary improvements that provide benefit to other properties;

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 3.30.010 of the Lynnwood Municipal Code is hereby amended as follows:

3.30.010 Application authorized – Purpose – Term.

Any developer utilizing private funds to install infrastructure (street, water, or sewer (sanitary and/or storm)) improvements and appurtenances may apply to the city to establish a latecomer agreement for recovery of a prorated share of the cost of constructing said public improvement from other properties that will later derive a benefit from said improvements. No reimbursement agreement/latecomers' agreement shall extend from a period longer than fifteen (15) years from the date of final acceptance by the city unless a longer period is allowed pursuant to RCW 35.72.020 or 35.91.020. The city council shall have discretion to authorize or not to authorize latecomer agreement on a case-by-case basis.

Section 2. Section 3.30.050 of the Lynnwood Municipal Code is hereby amended as follows:

3.30.050 Procedures for reimbursement agreements.

- A. If a reimbursement agreement is requested, the property owner shall submit project plans and site plan, map or diagram of the proposed benefited area prepared by a licensed professional engineer, ownership reports on properties within the proposed benefited areas, a cost estimate for the project based upon the plans of a civil engineer from which reimbursable costs shall be estimated, and such other information as the city may require.
- B. Property owners requesting a reimbursement agreement shall submit, along with the application, a nonrefundable payment in the amount of \$3,000 and \$300 per parcel in the proposed benefited area to be applied to the city's legal, engineering and administrative costs (including but not limited to staff time, and costs for title reports, appraisers, or other costs) associated with preparing the reimbursement agreement, which costs shall be included as reimbursable costs in the reimbursement agreement; provided, that whenever city engineering, legal, and administrative costs exceed the payment required herein, the city shall not process the application until such costs have been paid in full.
- C. The public works director will formulate an assessment reimbursement area (benefit area) based upon a determination of which parcels did not contribute to the original cost of such infrastructure improvement and who connect to or specially benefit from such infrastructure.
- D. The public works director based on information submitted by the owner will estimate pro rata share of costs. The public works director may require engineering costs or construction bids to be provided.
- E. The public works director, in the public works director's discretion, may utilize the application fee to pay the costs of an appraiser to be retained by the city to assist the public works director in formulating an assessment reimbursement area.
- F. The preliminary determination of area boundaries and assessments, along with a description of the property owner's rights and options, shall be forwarded by first class mail to the property owners of record as shown on the records of the Snohomish County assessor within the proposed assessment area. A hearing shall be held before the city council, notice of which shall be given to all affected property owners at least 20 days in advance of the council meeting. At the hearing, the city council determines whether to accept, reject, or modify the proposed reimbursement agreement. If the city council accepts, it shall establish the reimbursement area; provided, that the city council may only increase the reimbursement area upon new notice to the owners of the affected property.
- G. Prior to commencing construction of the project, the owner shall submit three competitive construction bids on forms provided by the Public Works Department based upon city-approved plans to the city. Upon completion of the project, a reasonable pro rata share of project costs shall be established by the city, which shall then notify owners of the benefited properties of the amount of reimbursement connection charges against their property and the date the reimbursement agreement shall be presented to the city council for public hearing. On the date scheduled, the city council shall hear from

affected parties and thereafter set the terms of the reimbursement agreement and maximum amount and terms of reimbursement from affected properties. The decision of the city council shall be final and determinative.

- H. The latecomer agreements must be recorded in the Snohomish County auditor's office within 30 days of the final execution of the agreement. It shall be the sole responsibility of the latecomer applicant to record said agreement.
- I. Once recorded, the latecomer agreement shall be binding on owners of record within the assessment area who are not party to the agreement

Section 3. Section 14.50.090 of the Lynnwood Municipal Code is hereby amended as follows:

14.50.090 Authority to make reimbursement agreements.

For the purpose of reimbursing private individuals or organizations that have expended funds to construct extensions and betterments to the general sewerage system of the city, which extensions and betterments will make sewer service available to properties other than those to which the private developer had need to serve in his interest; and from which additional properties so served will permit the city to levy and collect Class A and Class B connection charges therefrom, the city may enter into an agreement pursuant to LMC 3.30 whereby said individuals or organizations may receive compensation for a part or all of their costs in constructing such an extension of the sewer system, to be known as an extended line.

Section 4. Section 14.50.100 of the Lynnwood Municipal Code is hereby repealed.

Section 5. Section 14.50.110 of the Lynnwood Municipal Code is hereby repealed.

Section 6. Section 13.32.010 of the Lynnwood Municipal Code is hereby amended as follows:

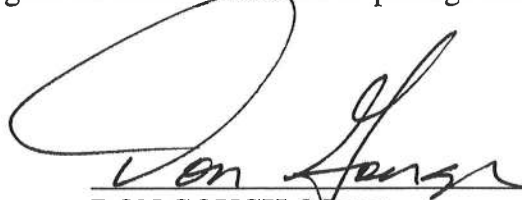
13.32.010 Contracts for water facilities.

The city may enter into contracts pursuant to Chapter 35.91 RCW (Laws of 1959 c 261) with owners of real estate for the construction of water facilities, as defined in RCW 35.91.020, and for the reimbursement pursuant to LMC 3.30 of the owner by users subsequently connecting to the facility, and the mayor, in the name of the city, is authorized to execute these contracts. Upon completion of any such water facilities, they shall be tested for purity according to the standards fixed by state law and by agents selected by the city of Lynnwood; upon approval by the Snohomish County health district or other agency authorized to make such purity tests, and delivery to the city of Lynnwood of a bill of sale to such water facility, the city engineer may accept the same as a part of the water system and permit connection thereto. The fees for purity tests shall be paid prior to acceptance.

Section 7. Severability. If any section, subsection, sentence, clause, phrase or word of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this Ordinance.

Section 8. Effective Date. This Ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in force five (5) days after publication.

PASSED THIS 10th day of July, 2006, and signed in authentication of its passage this ~~14~~¹⁵* day of July, 2006.



DON GOUGH, Mayor

ATTEST:

APPROVED AS TO FORM:



PATRICK DUGAN
Interim Finance Director

MICHAEL P. RUARK
City Attorney

*CORRECTED DATE OF EXECUTION